

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Derrick E. Kirtman, #08020-062,)	C/A No. 4:16-2839-TMC-TER
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
Chaplain Helbig,)	
S.I.A. Stivers,)	
S.I.A. Lt. Dumbar,)	
Warden Cruz,)	
Case Manager McCellan,)	
Hospital Administrator, Jane Doe-1,)	
Assistant Hospital Administrator Whitehurst,)	
Assistant Warden Landford,)	
Assistant Warden John Doe-2)	
Register Nurse K. Caluago,)	
Register Nurse Jane Doe-3,)	
Correctional Officer John Doe-4,)	
—)	
Counselor Parker,)	
Counselor Coates,)	
Unit Manager Horton,)	
Warden Tewel,)	
M.D. Jesus Fernandez,)	
M.D. Ross Quinn,)	
P.A. Hernandez,)	
P.A. Britsite Wolverton,)	
E. Topete,)	
Warden John Doe-5,)	
)	
Defendants.)	
)	

This is a civil action filed by Plaintiff, a federal prisoner, proceeding *pro se*, alleging violations of his constitutional rights against federal employees in their individual capacity under *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

On March 23, 2017, the Clerk of Court issued the summons for Defendant John Doe-2 as

well as several other Defendants. (ECF No. 74). The summons as to Defendant John Doe-2 was returned unexecuted from the U.S. Marshal with the notation that the Defendant could not be identified. (ECF No. 73). On April 19, 2017, the court ordered Plaintiff to provide updated service forms with more specific identifying information for Defendant John Doe-2 and warned that dismissal was possible if he did not respond to the order and provide the requested information. (ECF No. 74). Plaintiff has failed to respond to the order and failed to submit additional service documents with specific identifying information for Defendant John Doe-2.

The Court has not received any response from Plaintiff. The mail in which the orders were sent to Plaintiff at the address provided has not been returned to the court, thus it is presumed that Plaintiff received the orders, but has neglected to comply with the orders within the time permitted under the orders. Plaintiff's lack of response indicates an intent to not prosecute against Defendant John Doe-2, and subjects Defendant John Doe-2 to dismissal. *See* Fed. R. Civ. P. 41(b)(district courts may dismiss an action if a Plaintiff fails to comply with an order of the court); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989)(dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss *sua sponte*).

Accordingly, Defendant John Doe-2 is **DISMISSED** without prejudice.

IT IS SO ORDERED.

s/Timothy M. Cain
Timothy M. Cain
United States District Judge

July 10, 2017
Anderson, South Carolina